

Message Text

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SUBJECT: ROKG RESPONDS TO FRASER QUERY ON CIVIL LIBERTIES

1. FOLLOWING IS PRECIS OF MOFA'S UNSOLICITED RESPONSE TO THE QUESTIONNAIRE WHICH CONGRESSMAN FRASER SENT DEPARTMENT JULY 17 AND WHICH WE INFORMALLY GAVE TO MOFA FOR ITS INFORMATION. MOFA PAPER GIVEN TO US JULY 24 BY NORTH AMERICAN BUREAU CHIEF LEE SANG OCK "FOR REFERENCE." COMPLETE TEXT BEING FORWARDED TO DEPARTMENT BY AIRGRAM.

2. POLITICAL PRISONERS IN SOUTH KOREA. NONE EXIST. NO ONE CAN BE DETAINED, ARRESTED, OR PUNISHED BECAUSE OF RACE, COLOR, OR BELIEF UNLESS ONE EITHER USES OF ADVOCATES VIOLENCE. AS IT IS COMMON KNOWLEDGE COMMUNISTS ACHIEVE AIMS BY FORCE, INDIVIDUALS PUNISHED BY ROKG ANTI-COMMUNIST LAW CANNOT BE REGARDED AS POLITICAL PRISONERS BUT AS LAW-BREAKERS. THOSE ARRESTED UNDER GOVERNMENT EMERGENCY MEASURES WERE MISTAKENLY REGARDED AS POLITICAL PRISONERS. EVIDENCE IN RECENT TRIALS HAS PROVED THAT INDICTED INDIVIDUALS HAVE CONSPIRED TO "COMMUNIZE- COUNTRY THROUGH VIOLENCE AND THEY ARE GUILTY AS CRIMINALS.

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3. PRISONERS UNDERGOING TORTURE. TORTURE IS PROHIBITED BY LAW. ALLEGATIONS OF TORTURE IN NFDYS CASE WERE UNILATERAL SELF-SERVING STATEMENTS BY INDIVIDUAL PERSONS INDICTED AND THUS GROUNDLESS.

4. PRISONERS BEING HELD INCOMMUNICADO. NO INSTANCES EXIST. KOREAN LAW PRECLUDES THIS AND THEREFORE IT IS INCONCEIVABLE THAT A PERSON BE CUT OFF FROM OUTSIDE. IN RECENT NFDYS CASES, CERTAIN SUSPECTS WERE PROHIBITED FROM "INTERVIEWS" IN ACCORD WITH ARTICLE 131 OF CODE OF MILITARY COURTS PERTAINING TO NATIONAL SECURITY CASES. EVEN IN SUCH CASES, HOWEVER, "INTERVIEWS AND ACCESS OF DEFENSE COUNSEL HAVE BEEN SECURED."

5. DUE PROCESS PROCEDURES. KOREAN LAW FOLLOWS ENLIGHTENED INTERNATIONAL LAW IN SUCH PROCEDURES THOUGH MOFA STATES THAT UNDER EMERGENCY MEASURES, SEARCH AND SEIZURE WITHOUT WARRANT CAN BE GRANTED BY MILITARY PROSECUTOR. ON JULY 6, 1974 SUPREME COURT UPHELD APPEALS OF ORIGINAL SENTENCES UNDER EMERGENCY MEASURES, AND BY INFERENCE THIS PRACTICE.

6. TRADE UNION FREEDOM. RESPONSE HERE DESCRIBES BRIEFLY HISTORY OF TRADE UNION GROWTH IN KOREA, EXPLAINING THROUGH DETAILED EXAMPLES FREEDOM OF WORKERS TO ORGANIZE, NEGOTIATE COLLECTIVELY, AND TO ENGAGE IN COLLECTIVE ACTIVITIES WITH SOME EMPHASIS ON EMERGENCY MEASURE NO. 3.

7. ACADEMIC FREEDOM. WHILE THIS FREEDOM IS GUARANTEED, INCLUDING ARRANGEMENT OF SCHOOL COURSES AND SELECTION OF BOOKS BY INSTRUCTORS, NONETHELESS TWO PROFESSORS AND SEVERAL UNIVERSITY STUDENTS HAVE BEEN TRIED RECENTLY-- NOT FOR ACADEMIC VIEWS AND ACTIVITIES AS SOME ALLEGE-- BUT FOR ILLEGAL ANTI-NATIONAL ACTS. MOFA NOTES ONE PROVISION OF EMERGENCY MEASURES 4 PUNISHES THOSE -WHO BOYCOTT LECTURES WITHOUT JUSTIFIABLE REASON" AND NOTES GOVERNMENT POWER TO CLOSE SCHOOLS. THIS CLAUSE WAS TO PREVENT OUTBREAKS OF STUDENT RIOTS BY NFDYS TO TOPPLE GOVERNMENT UNDER GUISE OF PEACEFUL METHODS LIKE

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CLASSROOM BOYCOTT. CLASS "CUTTERS" HAVE NOT BEEN PROSECUTED THUS FAR HOWEVER, AND NO SCHOOLS HAVE YET BEEN CLOSED.

8. FREEDOM OF POLITICAL PARTIES. THERE IS NOTHING PARTICULARLY NEW HERE EXCEPT TO NOTE THAT FREEDOM TO GROUP AND ORGANIZE POLITICALLY IS GUARANTEED BY CONSTITUTION.

9. AS TO QUESTIONS WHETHER EMERGENCY MEASURES ARE TO KEEP PRESIDENT PARK IN POWER OR TO PROTECT COUNTRY AGAINST SUBVERSION AND AGGRESSION FROM NORTH KOREA, MOFA CLAIMS THERE HAVE BEEN 23,000 TRUCE VIOLATIONS BY NORTH KOREA SINCE ARMISTICE, PROVING THAT THREAT OF COMMUNIST REVOLUTION BY OTHER SIDE STILL REMAINS. IF WAR BREAKS OUT AGAIN WITH NORTH KOREA CAUSING CHAOS, ETC. THERE "WILL NO LONGER BE ANY INDIVIDUAL FREEDOM OR FUNDAMENTAL RIGHTS TO SPEAK OF." THUS COMMUNISM REMAINS VITAL THREAT.

10. COMMENT: MOFA'S WHITEWASH JOB WAS HURRIEDLY PUT TOGETHER AND IS NOT A GOOD CASE. INTERNAL LOGIC OF PAPER IS FAULTY IN SEVERAL SPOTS WHERE MOFA ASSUMES THAT BECAUSE LAWS EXIST THEY ARE OBSERVED. TWO MOFA OFFICERS WHO WORKED ON PAPER SHOWED OBVIOUS DISTASTE FOR TASK AND ADMITTED TO US THEY HAD PRODUCED POOR PRODUCT. HABIB

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